



Express Mail No. EU612875365US

Docket No.: CIBT-P01-515

RECEIVED  
SEP 03 2002  
TECHNICAL CENTER 600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Cohen et al.

Application No.: 08/851628

Group Art Unit: 1647

Filed: May 6, 1997

Examiner: D. Romero

For: NOVEL THERAPIES FOR CHRONIC RENAL  
FAILURE

**COMMUNICATION IN RESPONSE TO RESTRICTION  
REQUIREMENT AND PETITION FOR A ONE-MONTH EXTENSION OF TIME**

Commissioner for Patents  
Washington, DC 20231

Dear Sir:

August 28, 2002

This Communication is submitted in response to a July 1, 2002 Office Action issued by the United States Patent and Trademark Office in connection with the above-identified application. A response was originally due August 1, 2002. Applicants hereby petition for a one-month extension of time. Applicants have previously established small-entity status. The required fee for a one-month extension of time for a small entity is \$55.00 and authorization is hereby given to charge this amount to Deposit Account No. 18-1945, under Order No. CIBT-P01-515. Accordingly, a response is now due September 1, 2002. Therefore, this response is being timely filed.

**Restriction Requirement under 35 U.S.C. §121**

Claims 1-4, 6-10, 12, 15-17, 24, 28, 32, and 52-55 are pending.

8892229.1

3/20/2002 10:00:00 AM 00000070 00000000 00000000  
00000000 00000000 00000000 00000000

The Examiner stated that claims 1-4, 6-10, 12, 15-17, 24, 28, 32, 52, 54 are generic. However, applicants respectfully point out, and as confirmed in the Interview Summary dated July 11, 2002, that claims 1-4, 6-10, 12, 15-17, 24, 28, 32, and 52-55 are generic.

The Examiner stated that the application contains claims directed to the following alleged distinct species of the claimed invention: each of the species of morphogen listed in claim 3.

The Examiner stated that if the elected morphogen species is OP-1, then the application contains claims directed to the following patentably distinct species of the claimed invention: a pro-form; a mature form; and a soluble form.

The Examiner stated that the application contains claims directed to the following allegedly patentably distinct species of the claimed invention: ultrasound; MRI; and CAT scan.

The Examiner stated that the application contains claims directed to the following allegedly patentably distinct species of the claimed invention: each of the species of chronic renal conditions recited in claim 54.


In response, applicants undersigned attorney, on behalf of applicants, hereby elects with traverse, the following species: OP-1; with respect to OP-1, the mature form; MRI; and chronic diabetic nephropathy. However, applicants contend that there would be no additional burden on the Examiner to search all of the species. Moreover, the list of conditions recited in claim 54 manifest similar symptoms and are caused by chronic renal disease. Accordingly, applicants respectfully request that the Examiner search all of the species.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee other than the \$55.00 fee for a one-month extension of time is necessary.  
However, if any additional fee is deemed necessary, please charge our Deposit Account No. 18-  
1945, under Order No. CIBT-P01-515 from which the undersigned is authorized to draw.

Dated: August 28, 2002

Respectfully submitted,

By   
Spencer H. Schneider  
Registration No.: 45,923  
ROPES & GRAY  
885 Third Avenue, Suite 3200  
New York, New York 10022-4834  
(212) 497-3600  
(212) 497-3650 (fax)  
Attorneys for Applicant